IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 350 OF 2007

Mr.Bhausaheb Neyku Shetye ...Petitioner
V/s.
State of Maharashtra ...Respondent

Mr.M.B. Shirsat for the Petitioner.
Mr.Y.S. Shinde, Addl.P.P. for State.

CORAM : V.M. KANADE, J.

DATED : AUGUST 6, 2007

P.C. :-

. Heard the learned Counsel for the petitioner and the learned APP for the State.

2. The petitioner is challenging the order passed by the trial Court whereby his application for discharge was rejected by order dated 18th September, 2007.

3. The prosecution case is that the petitioner is working as Branch Manager in the Bank. He had sanctioned loan on an application being made by the co-accused without verifying the existence of the flat of the society in which the alleged flat was to be purchased by the co-accused.

4. The learned Counsel for the petitioner submits that none of the witnesses have stated that the petitioner was a member of conspiracy or had taken any active part in cheating the bank. He submitted that the petitioner has not received any amount from the other co-accused who had procured loan from the bank on the basis of false and fabricated documents which were submitted by the co-accused.

5. The learned APP submits that though there was a specific circular issued by the bank in which it was stated that the Branch Manager should verify the existence of the society and only thereafter, grant his approval for sanctioning the loan, even then this precaution had not been taken by the petitioner.

6. In my view, at this stage, it would not be possible to appreciate the material on record and therefore, this is not a fit case of discharge of the petitioner at this stage. It is a well settled position in law that when an application is made for discharge

under Section 27 of the Cr.P.C., the Court has to see whether prima facie case is made out or not and the material must not be examined to see whether the applicant is likely to be convicted on the basis of the material on record but the court has to examine whether there is any prima facie material suggesting the involvement of the applicant. The trial Court has rightly rejected the application of the petitioner.

7. Hence, writ petition is rejected. It is clarified that the trial Court shall not be influenced by the observations made by this Court while rejecting the application of the petitioner. The trial Court may grant exemption to the petitioner from appearing in the Court on each and every date. If such an application is filed by the petitioner, the same shall be considered favourably by the trial Court.

. The petition is disposed of.

(V.M. KANADE, J.)